

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DONGXIAO YUE,
Plaintiff,
v.
CHUN-HUI MIAO, et al.,
Defendants.

Case No. [18-cv-01074-DMR](#)

**ORDER ON MOTION FOR LEAVE TO
FILE MOTION FOR
RECONSIDERATION**

Re: Dkt. No. 36

Pro se Plaintiff Dongxiao Yue filed this lawsuit against Defendants Chun-Hui Miao and Bian-Wang.com on December 15, 2017 in Superior Court of California, County of Contra Costa. Miao and Bian-Wang.com subsequently removed the case to this court pursuant to 28 U.S.C. § 1441. [Docket No. 1 (Notice of Removal).] On May 3, 2018, the court sua sponte remanded the case to state court pursuant to 28 U.S.C. § 1447(c) for lack of subject matter jurisdiction over the action. [Docket No. 34.]

Defendant Miao now moves for leave to file a motion for reconsideration of the court's order remanding the case to state court. [Docket No. 36.] An order remanding an action under section 1447(c) "is not reviewable on appeal *or otherwise*," 28 U.S.C. § 1447(d) (emphasis added), and the Ninth Circuit has held that the language of section 1447(d) "has been universally construed to preclude not only appellate review but also reconsideration by the district court. Once a district court certifies a remand order to state court it is divested of jurisdiction and can take no further action on the case." *Seedman v. U.S. Dist. Court for Cent. Dist. of California*, 837 F.2d 413, 414 (9th Cir. 1988). In this case, the clerk certified the remand order prior to the filing of Miao's motion. [Docket No. 35.] Accordingly, this court lacks jurisdiction to consider Miao's

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motion for leave to file a motion for reconsideration. The motion is therefore denied.

IT IS SO ORDERED.

Dated: May 7, 2018

